IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.355 of l996

Shri Kamran Yusuf Shaikh....Petitioner
vs
The Appellate Authority and Asst
Gen Manager Bank of Mah and anr..Respondents

Mr.N V Bandiwadekar for petitioner

CORAM:A.P.SHAH & D.Y.CHANDRACHUD JJ.

Dated 28.6.2005

P.C:

l. In this petition the challenge is to the order dated 29.4.l994 passed by the respondent no. 2 imposing punishment of removal from service and also further order dated 25.8.l995 passed by the respondent no.l dismissing the petitioner's appeal against the order of punishment. The petitioner was an employee of the Bank of Maharashtra. While he was officiating Branch Manager at Kalwan Branch of the Bank he was served with a charge sheet dated 22.9.l993. The charge against him was that while working as Branch Manager at Kalawn he purchased a cheque for Rs.8900 drawn by Shri Swami Samarth Credit Coop Society Udgaon on Nasik District Central Coop Bank Udgaon Branch, Nasik on his own and credited the amount of Rs.8900 to his Savings Bank Account at Kalwan Branch. Thus he exceeded

power and misutilised the office as Officiating Branch Manager and thereby violated regulation 3(l) of the B O M O E (Conduct) Regulations, l976, hereinafter referred to as the said Regulations. It was alleged that he purchased the said cheque in a fraudulent manner. He did not ensure to send the BP purchased for realisation to Ugaon Brnach though he had entered the instrument in the outward register of the branch. Thus he violated the regulation 3(l) of the said Regulations. A domestic inquiry was conducted into the charges by Sr Manager Regional Officer, Nasik. During the inquiry the petitioner unconditionally accepted the charge leveled against him.

2. The inquiry officer submitted his report to the respondent no.2- Chief Manager, Nasik Region that all the charges are proved against the petitioner. Copy of the inquiry report was served on the petitioner and he was called upon the submit his written say to the same. On consideration of the say of the petitioner respondent no.2 passed the order imposing punishment of (i) withholding of one increment, (ii) removal from service and (iii) censure. The petitioner preferred an appeal before the respondent no.l -Appellate Authority against

the award of punishment. Vide his order dated 25.8.l995 the Appellate Authority dismissed the appeal.

3) Mr.Bandiwadekar , appearing for the petitioner raised only two contentions before us. First, he contended that the respondent no.2 had no authority or jurisdiction to impose punishment of removal. Secondly Mr Bandiwadekar submitted that the punishment of removal from service is highly excessive and not commensurate with the alleged misconduct. We find absolutely no merit in the submission of the learned counsel for the petitioner. In the first instance there is no material produced on record to show that the post of Chief Gen Manager is lower in rank than the post of Asst Gen Manager (Personnel). Beyond making bald statement that Chief General Manager is lesser in rank the petitioner has not produced any material to show that the Chief Genaral Manager was not competent to issue the punishment of removal against the petitioner. As far as punishment is concerned petitioner has unconditionally accepted the charges leveled against him.He has purchased the cheque in his own name and credited the amount in his savings bank account. It is seen from the

record that the amount was refunded only after 8 months. In the circumstances the disciplinary authoirty rightly held that such an act of gross misconduct deserves no less punishment than removal from service. It is also seen that the past record of the petitioner was wholly unsatisfactory. In the past he was charged for sanctioning and disbursing finance indiscriminately and sanctioning loans without following proper norms, procedure and availing/ disbursement of vehicle loan and housing loan for himself without sanction of the higher authorities while functioning as Senior Branch Manager at Chapadgaon Branch and after conduct of the inquiry he was punished by the disciplinary authority. Considering the charges proved against the petitioner and his past record the punishment of removal cannotr be said to be harsh or excessive.In the result petition is dismissed.